CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, Presiding Officer
Y. Nesry, Board Member
J. Massey, Board Member

This is a complaint to the Calgary Assessment Review Board in respect of a Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	**116027608**
LOCATION ADDRESS:	**7505 – 48 Street SE, Calgary AB**
HEARING NUMBER:	**59997**
ASSESSMENT:	**$43,710,000**

This complaint was heard on the 22nd to 24th days of June, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Josh Weber

Appeared on behalf of the Respondent:

- Ian Baigent, Irene Pau

Background and Preliminary Matters:

The hearing regarding this file 59997 was one of five hearings on similar, very large industrial properties. In the interests of efficiency, the Complainant dealt with general and generic data that would, for the most part, be applicable to all of the large properties. The Complainant's evidence brief, intended to cover two properties (File 59996 and 59997) contained evidence to support equity and market value arguments based on applications of the income approach. The only issue regarding the assessment of the property on file 59996 was equity. For the property on file 59997, the issues were equity and market value.

As a preliminary matter, both parties had rebuttal documents that they wished to file for this hearing (as well as for file 59996). These documents had been properly filed for other files that were on the same agenda as 59996 and 59997, however, an oversight left them out of the filings for these two hearings. Each party agreed to the admission of the other party's documents. Pursuant to the Matters Relating to Assessment Complaints Regulation (AR 310/2009), the Board accepted the documents and marked them as exhibits for all five hearings (Files 59996, 59997, 56342, 58947, 59999).

The documents were marked:

Exhibit 1: Complainant: "Rebuttal Evidence of the Complainant"
Exhibit 2: Respondent: "Appellant Document From ARB 2010 Hearing #59999"
Exhibit 3: Respondent: Document of ARFI's with The City of Calgary letter to Hoopp Realty Ltd. as its cover page
Exhibit 4: Respondent: "City of Calgary Industrial Multiple Building Assessment"

Later during this hearing (the morning of June 24, 2010), the Respondent chose to highlight portions of "Calgary Assessment Review Board Decision with Reasons #ARB 0522/2010-P" which had been issued on June 23, 2010. By addressing certain portions of that decision, the Respondent stated that he would be able to avoid elaboration on Exhibits 2, 3 and 4. The Complainant did not object. The CARB accepted the decision and marked it as an exhibit.

Exhibit 5: Respondent: "Calgary ARB Decision ARB 0522/2010-P"

Board's Decision in Respect of Procedural or Jurisdictional Matters:

At the point in the hearing where the Complainant introduced Exhibit 1, the Respondent objected to full admission of the exhibit on the grounds that it contained new evidence that could not be considered as rebuttal evidence.

The Complainant explained the contents of the exhibit:

- A list of hearing numbers for which the rebuttal was submitted (including files 59996 and 59997)
- An analysis of data, including income and capitalization rate analyses on the properties the Respondent had used in its direct sales comparison approach
- RealNet Canada Inc. transaction summaries for the properties the Respondent had used in its direct sales comparison approach
- Rent rolls for some of the properties used by the Respondent in the direct sales comparison approach
- A press release pertaining to one of the properties used by the Respondent in the direct sales comparison approach
- Business assessment notices for some of the properties used by the Respondent in the direct sales comparison approach with that property's Net Annual Rental Value (NARV) marked.
- Narrative and textbook quote pertaining to resales and time adjustments

After hearing the positions and arguments of the parties, it was the decision of the CARB that the Complainant's rebuttal document be admitted into evidence in its entirety. All of the contents of the brief related to sales that had been used in the assessment valuation by the Respondent and the details in the brief were intended to show comparability or lack of comparability between the subject property and each of the Respondent's comparables. Once the parties had stated their positions, the Respondent requested a recess in order for him to arrange for another City of Calgary Assessment staff member to address the objection. In its oral decision on the objection, the CARB ruled that the Respondent had fully stated his case and there was no need to hear much the same argument from another person. Everything in the rebuttal document related to sales put forward by the Respondent and was therefore rebuttal evidence.

Property Description:

The property that is the subject of this assessment complaint is a large, three building multi-tenant industrial property located at 7505 – 48 Street SE in the Foothills Industrial area of Calgary. It comprises a 25.58 acre serviced lot improved with three buildings of 91,443 square feet, 262,816 square feet and 236,285 square feet (rentable area), all constructed circa 1992. Office space ratios within the buildings were 11%, 8% and 22%, respectively. The site coverage ratio for the three buildings is 49.82%.

The 2010 assessment of $43,710,000 indicates a rate of about $74 per square foot of total building area.

Issues:

The Complainant raised the following matters in section 4 of the complaint form: Assessment amount and Assessment class.

For 2010, the City of Calgary changed its policy for the assessment of properties with multiple buildings. Under the new policy, "*each building on a multiple building parcel receives its own unique rate per square foot based on its unique characteristics.*" The Complainant questioned the reasoning for the three buildings on the subject property being assessed at different rates per square foot when they were all similar buildings, except for rentable building area. It was argued that the property would be treated in the marketplace as a single property, not as three separate properties.

Exhibit #4, entitled "City of Calgary Industrial Multiple Building Assessment," cited as rationale for its policy a situation where two buildings on a site may have different years of construction, office finish, tenancy or size. Support came in the form of two assessment to sales ratio (ASR) studies wherein it was determined that ASR's based on assessments of individual buildings fit into the desired range better than when all buildings were assessed as one. The Respondent explained that data that is input into the mass appraisal model is tailored to reflect the situation where there is more than one building on a site. In the subject instance, for example, building 1 is not entered as a 91,443 square foot building on a 25.58 acre parcel of land. This would indicate a site coverage ratio of just 8.2%. To overcome that potential inaccuracy, the input for that building would show that it represents a 49.82% site coverage ratio (the ratio for the total area of all three buildings to land area). There was no further explanation of how one of several buildings on a single site is treated in the model.

Findings:

The Board accepts the Complainant's argument that the proper application of a multiple regression model requires data from a sufficient number of sales of similar properties and that there may not have been enough quality sales in the case of large industrial buildings. This is further indication that the subject property assessment might have been more accurate had it been prepared using the income approach, however, the Board's decision regarding Issue 5 explains why the Complainant's income approach cannot be relied upon in this case.

Having regard to the multiple building/individual building assessment argument, the Board finds for the Complainant. The subject property is a single property, legally registered on a single title. It just happens to have three separate buildings on that one land parcel. In all likelihood, the parcel could not be legally subdivided so that each building would have its own land parcel. In the marketplace, the property would compete with other properties with around the same total floor area regardless of the number of buildings. Rents achievable for space in the buildings would relate to bay sizes, not to total building sizes. While the City's adjustment of input data to account for site coverage is reasonable, there was no evidence before the Board indicating whether or not other data adjustments are made. For example, building 1 on the subject site, with an area of 91,443 square feet is valued on the basis of $86.95 per square foot and building 2, with an area of 262,816 square feet is valued at $71.00 per square foot. The Respondent argues that the differences in the rates reflect economies of scale wherein larger buildings tend to sell for a lower rate per square foot than smaller buildings. In this situation, however, the property would sell as one property and there is no evidence that shows that the various rates per square foot of the individual building areas reflect the fact that the total building area is 590,544 square feet. In other words, does the economies of scale adjustment in the assessment model relate to the total building area or to the area of each individual building? That question remains unanswered.

Issue 7: The aggregate assessment per square foot applied is inequitable with the assessments of similar and competing properties and should be $60 per square foot.

A list of 13 comparable properties was put forward by the Complainant. All were multi-tenant properties in Foothills Industrial. Some were single buildings while others were properties with two or three separate buildings. Total floor areas varied as did site coverage ratios. Ten of the 13 buildings were 10 to 15 years older than the subject. The analysis undertaken by the Complainant included determining the annual rental rate that would be required to support the assessed value using an 8.0% capitalization rate and a 5.0% vacancy allowance. The array of derived rental rates was from $5.04 to $6.44 per square foot of building area.

For purposes of comparison, the Complainant also included the rental rates (base and adjusted) that had been used by the City of Calgary in 2005 when industrial properties had been assessed using the income approach. The Complainant stated that there was no suggestion that these rental rates would be applicable for a 2009 valuation but that they were included to show comparability between properties.

The array of assessed values on a square foot of building area basis was from $59.98 to $76.63. From the table, the Complainant determined that a rate of $60.00 per square foot would be applicable to the subject. It was pointed out that the subject property is physically very similar to the property dealt with in the previous hearing #59996, except for total building area. In prior assessment years, the subject property had been assessed at a lower overall rate than the other property but now, the subject is assessed at about $74 per square foot whereas the other smaller property is assessed at just $66 per square foot.

The Respondent's equity evidence was set out in a chart sorted by rate per square foot. The range of rates for multi-tenant properties was from $60.00 to $82.11 per square foot. The Respondent was adamant that the primary factor impacting on value for industrial properties is site coverage but other factors such as age, office finish and floor area would have an impact. The subject property, with an average assessment rate of $74 per square foot of building, fits well within the range.

Findings:

The CARB thoroughly examined the equity comparables put forward by each party. With emphasis on those with site coverage ratios between 45 and 55 percent, the Complainant had five in its chart with assessed values from $60.00 to $76.63 per square foot. Four of the five had a rate below $66 per square foot. The Respondent's chart had six within the range with values ranging from $60.00 to $75.43 per square foot, again with all but one at less than $66 per square foot.

The CARB agrees with the Complainant that the subject property is very similar to the one at 4920 – 72 Avenue SE that was thoroughly studied earlier in this hearing (Hearing File 59996). In its decision regarding that property, this Board found that the equity comparables from each party tended to support the rate of $66 per square foot. The subject is larger, indicating a lower rate per square foot but it has a lower site coverage ratio, indicating a higher rate per square foot.

Given the degree of comparability between this and other subject property, notwithstanding the total building floor and site coverage differences, the Board finds that equity supports an assessment on the subject of $66 per square foot or $38,975,000 in all.

The Complainant also raised the following specific issues in section 5 of the Complaint form:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Regulation 220/2004.
2. The use, quality and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289(2) of the Municipal Government Act.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. The information requested from the municipality pursuant to Section 299 or 300 of the Municipal Government Act was not provided.
5. The characteristics and physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, management, non-recoverables and cap rates; indicating an assessment market value of $65 per square foot.
6. The assessment regression model method is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.
7. The aggregate assessment per square foot applied is inequitable with the assessments of similar and competing properties and should be $60 per square foot.
8. The aggregate assessment per square foot applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be $77 per square foot.

During this hearing, the Complainant's evidence and argument focused on the equity issue (No. 7 in the above list), on the market value estimation by use of the income approach (No. 5 in the above list) and on Issue 6 regarding the accuracy of the assessment regression model. As part of the argument regarding Issue 6, the Complainant pointed out the shortcomings of the Respondent's current practice of assessing multiple building properties on a building by building basis.

For ease of reading, the issues will be set out as Issues 5, 6 and 7 as per the above list.

Complainant's Requested Value:

$35,430,000

Board's Decision in Respect of Each Matter or Issue:

Issue 5:

From the perspective of the Complainant, the lack of relevant 2009 sales of larger industrial properties makes the direct sales comparison approach value estimate less reliable. For this reason, the income approach is a superior valuation method for properties such as the subject. Vacancy and capitalization rates, along with comparable building/bay rents are all extractable from the market.

The 2010 Altus Capitalization Rate Study yielded capitalization rates of 7.5% for buildings 1995 or newer and 8.0% for buildings older than 1995. This study examined five income property sales that occurred between the dates of September 2008 and November 2009. Each sale was analyzed on the basis of "typical" rental rates and on "Year One Stabilized Income" from the property. These rates were supported by market periodicals published by Colliers International and Altus In-site. The 5.0% vacancy rate was based on vacancy surveys conducted by Colliers.

Rental data came from the marketplace; however, the Complainant also found that the rental rate applied to the subject for Business Tax assessment purposes is $5.25 per square foot for 2010. A copy of a Calgary ARB decision was put into evidence. That decision stated that for property tax assessment purposes when valuing property by the income approach, the Net Annual Rental Rate (NARV) from the business tax assessment is the same as the market rental rate for input into the income approach.

As support for the capitalization rate derivation method, the Complainant provided portions of the City of Calgary Capitalization Rate Study of 2005, when industrial properties were assessed using the income approach. In that study, there were comments pertaining to extraction of capitalization rates from market sales and then using published industry reports as support. In that study, the City's analysis had found that pre-1994 properties tended to exhibit higher capitalization rates than newer properties.

The Complainant produced a series of charts summarizing a number of industrial property assessments from 2005. The intent was to show that properties of different ages, sizes, site coverage ratios and so on had all been assessed using the same rental rate. The rental rate was consistent for all properties where rental bay sizes were within a range. For example, buildings with bay size "9" were all assessed using a base rental rate of $4.00 per square foot. For those properties with bay size "3", the rate was $6.00 per square foot, for the most part. Other charts showed the City's rental rate extraction comparables set out by bay size.

Based on the Complainant's market analysis, a rental rate of $5.50 per square foot was set for the subject property's total rentable area of 590,544 square feet. When this rent rate was inserted into the formula, along with the 5.0% vacancy allowance and 8.0% capitalization rate, the indicated property value was indicated at $38,569,905 ($65.31 per square foot of building area).

The Respondent had not undertaken a valuation of the subject property using the income approach. The primary concern about the valuation done by the Complainant was the rental rate. In the Respondent's evidence was a copy of the ARFI for subject property that showed two leases that had come into effect during 2009 where the rent rate was higher than the $5.50 rate selected by the Complainant. The Respondent also produced ARFI's or copies of rent rolls for properties that the Complainant had selected as rental rate comparables. It was also pointed out that in the Altus capitalization rate study; the only large industrial property had a reported net rent rate of $6.75 per square foot.

Exhibit #2 contained a copy of the Altus comparable lease summary plus copies of ARFI's pertaining to some of the properties in the summary. It was shown that a number of the lease transactions reported by the Complainant had rental rates other than those shown in the summary. For example, in a property at 5249 – 52 Street SE, the Complainant's chart showed a lease of 58,750 square feet to Goldray Industries at $5.50 per square foot for a lease extending from November 1, 2008 to October 31, 2013. The ARFI showed all of the same details except the rental rate was reported at $6.50, not $5.50. Exhibit #2 showed similar discrepancies for several of the Complainant's other rent comparables.

The Respondent did not take issue with the vacancy rate or the capitalization rate used by the Complainant.

Findings:

The Board finds that the income approach to value is an acceptable valuation method for industrial properties and may provide a more reliable value estimate for large industrial properties such as the subject where there is a lack of sales of similar large properties within the relevant analysis period. As with any valuation method, however, its overall accuracy relates directly to the input factors (rent rate, vacancy allowance, and capitalization rate). While the Board finds that the vacancy rate and capitalization rate used by the Complainant are reasonable well founded, the rent rate is not. The Complainant's rental rate of $5.50 per square foot was selected on the basis of an analysis of industrial bay sizes, an acceptable approach, however much of the rent rate evidence was shown by the Respondent to be incorrect or questionable.

The result is that the Board is unable to place weight on the Complainant's income approach valuation because of doubt as to the reliability of the rent rate used.

Issue 6:

The Complainant questioned the accuracy and thus the reliability of the Respondent's regression analysis with respect to large industrial properties like the subject. The Respondent had provided a list of 156 industrial property sales that formed the basis of the 2009 valuation of industrial properties in all areas of Calgary. These 156 sales had occurred between the dates of July 6, 2006 and June 24, 2009. Adjustments were made for market changes between the respective sale dates and the valuation date of July 1, 2009. The Complainant questioned the accuracy of the time adjustment rates, citing changes in rent rates and capitalization rates that contradicted the monthly rates used for time adjustments. From 2008 to 2009, market evidence showed that capitalization rates had increased by 20 to 25 percent, indicating that property values may have declined by that much but the City only applied a negative time adjustment of six percent (one half of one percent per month).

Further, it was a concern that there was no indication in the sales list as to how properties were grouped or stratified for the regression analysis. Assessments are to be prepared using mass appraisal. Mass appraisal means the process of preparing assessments for a group of properties. Since no grouping or stratification explanations had been provided by the City of Calgary, the Complainant questioned the validity of using the 156 sale properties as the basis for the valuation of some 2,300 industrial properties when neither the sales nor the assessed properties had been grouped or stratified.

Just 12 of the 156 sales used by the City had transacted during 2009. None of the buildings were anywhere near the size of the subject. In fact, only a few of the 156 sales involved properties where building size exceeded 100,000 square feet. With this limited amount of data and recognizing that large properties should be in a group separate from other, smaller properties, the Complainant questioned how the City's regression model could accurately compute assessments for this group of large properties. The conclusion is that there were insufficient sales used by the City to make the regression model work satisfactorily for large industrial properties.

The Respondent's position was that eight of the 156 sales used for the 2010 assessment was an adequate sample for making comparisons of large industrial properties in the multiple regression model.

Complainant's Rebuttal:

Earlier in this decision, the Board rendered its decision on the admissibility of the Complainant's rebuttal document. Notwithstanding that it was admitted at the commencement of this hearing, it dealt with the accuracy of the data in the Respondent's direct sales comparison approach. Since the quality of the sales approach was not a major issue in this complaint, it is not necessary to go into the details of that rebuttal in this decision. The rebuttal document was filed in regard to other complaints on this same agenda and it will be dealt with in more detail in decisions regarding those other complaints.

Summary

In view of the above considerations, the CARB finds as follows:

For the assessment of the subject property which is unique, particularly with respect to its size, the income approach would produce the more accurate assessment. However, the rent rate that was input into that valuation by the Complainant is not considered to be realistic on the basis of the rental evidence, thus the value conclusion arrived at by the Complainant is not accepted.

The Board finds that there is a shortage of sales of properties of the same type and size as the subject. Further, the Board finds that the separate valuation on each of the three buildings on the subject site may not have addressed all of the factors that differentiate multi-building properties from single building properties. To conclude, there are a number of concerns over the direct sales comparison approach as it was applied in preparing the subject assessment.

With consideration given to all characteristics of the subject property, the CARB finds that the equity comparables of both parties tend to support an assessment of the subject at $66 per square foot.

Board's Decision:

The 2010 assessment of the subject property is reduced to $38,975,000.

DATED AT THE CITY OF CALGARY THIS 21st **DAY OF** July **2010.**

WKipp

W. Kipp
Presiding Officer

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

(a) the complainant;

(b) an assessed person, other than the complainant, who is affected by the decision;

(c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;

(d) the assessor for a municipality referred to in clause (c).

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

(a) the assessment review board, and

(b) any other persons as the judge directs.